



California Regional Water Quality Control Board

San Francisco Bay Region



Terry Tamminen
Secretary for
Environmental
Protection

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.swrcb.ca.gov/rwqcb2>

Arnold Schwarzenegger
Governor

Date: **OCT 08 2004**
File No.: 2119.1039 (MLZ)

CERTIFIED MAIL NO. 70032260000212595462
RETURN RECEIPT REQUESTED

Mr. Dave Sullivan
Plant Manager
Rodeo Sanitation District
800 San Pablo Avenue
Rodeo, CA 94572-1232

RE: Mandatory Minimum Penalty assessed under Water Code Sections 13385 (h) and (i)

Dear Mr. Sullivan:

Enclosed is Complaint No. R2-2004-0077. The Complaint alleges that there were a total of six serious violations of Rodeo Sanitation District's NPDES permit during the period between December 20, 2002 and July 13, 2004. These are: three chlorine residual instantaneous maximum effluent limit violations; and, three settleable matter daily maximum effluent limit violations. These six effluent limit violations are subject to mandatory minimum penalties under Sections 13385 (h) and/or (i) of the California Water Code for a total mandatory minimum penalty of \$18,000.

I plan to bring this matter to the Water Board at its November 17, 2004 meeting. You have three options:

1. You can appear before the Water Board at the meeting to contest the matter. Written comments are due by 5:00 p.m., October 16, 2004. At the meeting the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the case to the Attorney General to have a Superior Court consider imposition of a penalty.
2. You can waive the right to a hearing by signing the waiver included in the Complaint and checking the first box. There will be no hearing on this matter, provided no significant public comment is received by Water Board staff prior to close of the comment period. By checking the first box and signing the waiver you agree to pay the liability within 30 days after the signed waiver becomes effective.
3. You can waive the right to a hearing and agree to undertake a Supplemental Environmental Project (SEP) by signing the waiver and checking the second box. There will be no hearing

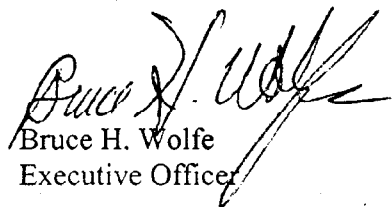
Mr. Dave Sullivan
Rodeo Sanitation District

MMP R2-2004-0077

on this matter, provided no significant public comment is received by Water Board staff upon closure of the comment period. By checking the second box and signing the waiver, you agree to complete an SEP in lieu of paying a suspended amount of up to \$16,500 of the penalty and remit the balance of the fine to the State Water Pollution Cleanup and Abatement Account within thirty (30) days after the signed waiver becomes effective. Note that the SEP must be acceptable to the Executive Officer of the Water Board. If the Executive Officer determines that either, the SEP proposal is not acceptable, or the SEP is not adequately completed within the approved time schedule, you will be required to pay the suspended liability within 30 days of notification by the Executive Officer.

For options 2 or 3 above, you are requested to mail and fax a copy of the signed waiver to the attention of Myriam Zech at (510) 622-2501 no later than 5:00 p.m., October 16, 2004, and if you intend to complete an SEP, a preliminary proposal must accompany the waiver for approval of concept. If you have any questions regarding this matter, please contact Myriam Zech of my staff at (510) 622-5684 or email mlz@rb2.swrcb.ca.gov.

Sincerely,


Bruce H. Wolfe
Executive Officer

Enclosure: Complaint No. R2-2004-0077

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**COMPLAINT NO. R2-2004-0077
MANDATORY MINIMUM PENALTY
IN THE MATTER OF
RODEO SANITARY DISTRICT
RODEO, CONTRA COSTA COUNTY**

This complaint assesses Mandatory Minimum Penalties (MMPs) pursuant to Water Code Section 13385(h) and (i). It is issued to Rodeo Sanitary District (hereafter Discharger) based on a finding of violations of Waste Discharge Requirements Order No. 01-107 (NPDES No. CA0037826).

The Executive Officer finds the following:

1. On September 19, 2001, the Water Board adopted Order No. 01-107 for the Discharger, to regulate discharges of waste from its facility. Order No. 01-107 became effective on October 1, 2001, and will expire on August 31, 2006.
2. Water Code Section 13385(h)(1) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each serious violation.
3. Water Code Section 13385(h)(2) defines a "serious violation" as any waste discharge of a Group I pollutant that exceeds the effluent limitation contained in the applicable waste discharge requirements by 40 percent or more, or any waste discharge of a Group II pollutant that exceeds the effluent limitation by 20 percent or more.
4. Water Code Section 13385(i) requires the Water Board to assess an MMP of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the Discharger does any of the following four or more times in any six consecutive months:
 - a) Violates a waste discharge requirement effluent limitation.
 - b) Fails to file a report pursuant to Section 13260.
 - c) Files an incomplete report pursuant to Section 13260.
 - d) Violates a toxicity effluent limitation contained in the applicable waste discharge requirements where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.
5. Water Code Section 13385(l) allows the Water Board, with the concurrence of the Discharger, to direct a portion of the MMP amount to be expended on a supplemental environmental project (SEP) in accordance with the enforcement policy of the State Water Resources Control Board. The Discharger may undertake a SEP up to the full amount of the MMP for liabilities less than or equal to \$15,000. If the MMP amount exceeds \$15,000, the MMP amount that may be expended on a SEP may not exceed \$15,000 plus 50 percent of the MMP amount that exceeds \$15,000.

6. Order No. 01-107 includes the following effluent limitations:

B. Effluent Limitations

1. *The discharge of all treated wastewater shall not exceed the following limits:*

- d. *Settleable matter 0.1 ml/l/hr (monthly average)/ 0.2 ml/l/hr (daily maximum)*
e. *Total Chlorine Residual 0.0 mg/l Instantaneous Maximum.*

2. *Total Coliform Bacteria: The moving median value for the Most Probable Number (MPN) of total coliform bacteria in any five (5) consecutive samples shall not exceed 240 MPM/100ml; and any single sample shall not exceed 10,000 MPN/100ml.*

7. From December 20, 2002 to July 13, 2004, the Discharger exceeded its NPDES permit limits seven times. The following is the summary of these violations:

#	Date	Parameter in Violation	Permit Limit Maximum	Reported Value	Chronic	Serious
1.	12/20/2002	Total Coliform MPN/100ml	10000	16000	C1	
2.	2/26/2003	Chlorine residual inst. mg/l	0.0	5.0		\$3,000
3.	4/30/2003	Chlorine residual inst. mg/l	0.0	3.9		\$3,000
4.	7/4/2003	Settleable Matter Daily ml/l/hr	0.2	0.3		\$3,000
5.	7/22/2003	Settleable Matter Daily ml/l/hr	0.2	0.3		\$3,000
6.	9/2/2003	Chlorine residual inst. mg/l	0.0	5.4		\$3,000
7.	7/13/2004	Settleable Matter Daily ml/l/hr	0.2	2		\$3,000

C(x)-Running chronic violation. First three in 180 days are not penalized, fourth and any subsequent violations are penalized at \$3,000 per violation.

8. The total coliform daily maximum effluent limit violation on December 20, 2002 is not a serious violation under Section 13385 (h) (1). The violation is not subject to an MMP under Section 13385 (i) as there have not been four or more violations within the preceding 180 days.
9. Violations #2 to #7 are serious violations because total settleable solids is a Group I pollutant and the violations exceed the effluent limitation by 40 percent or more. Chlorine residual is a Group 2 pollutant and the violation exceeds the effluent limitation by 20 percent or more. All serious violations are subject to an MMP of \$3,000 penalty under Section 13385 (h) (1), for a total MMP of \$18,000 for the six violations.
10. Water Code Exception
Water Code Section 13385(j) provides some exceptions related to the assessment of MMPs for effluent limit violations. None of the exceptions apply to the violations cited in this Complaint.
11. MMP Assessment
The MMP for the six serious effluent limit violations is \$18,000. The total MMP amount for this Complaint is \$18,000.

12. Suspended MMP Amounts

Instead of paying the full penalty amount, the Discharger may spend an amount of up to \$16,500 on a SEP acceptable to the Executive Officer. Any such amount expended to satisfactorily complete a SEP will be permanently suspended.

13. SEP Categories

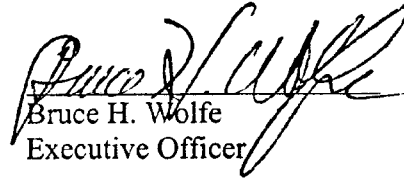
If the Discharger chooses to propose a SEP, the proposed SEP shall be in one of the following categories:

- a) Pollution prevention;
- b) Pollution reduction;
- c) Environmental clean-up or restoration; and
- d) Environmental education.

RODEO SANITARY DISTRICT IS HEREBY GIVEN NOTICE THAT:

1. The Executive Officer proposes that the Discharger be assessed an MMP in the total amount of \$18,000.
2. The Water Board will hold a hearing on this Complaint on November 17, 2004, unless the Discharger waives the right to a hearing by signing the attached waiver form and checks the appropriate box. By doing so, the Discharger agrees to:
 - a) Pay the full penalty of \$18,000 within 30 days after the signed waiver becomes effective; or,
 - b) Propose a SEP in an amount equivalent to a maximum \$16,500. Pay the balance of the penalty within 30 days after the signed waiver becomes effective. The sum of the SEP amount and the amount of the fine to be paid to the State Water Pollution Cleanup and Abatement Account shall equal the full penalty of \$18,000.
3. If the Discharger chooses to propose a SEP, it must submit a preliminary proposal by October 16, 2004 to the Executive Officer for conceptual approval. Any SEP proposal shall also conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002 and the attached Standard Criteria and Reporting Requirement for Supplemental Environmental Project. If the proposed SEP is not acceptable to the Executive Officer, the Discharger has 30 days from receipt of notice of an unacceptable SEP to either submit a new or revised proposal, or make a payment for the suspended penalty. All payments, including any money not used for the SEP, must be payable to the State Water Pollution Cleanup and Abatement Account. Regular reports on the SEP implementation shall be provided to the Executive Officer according to a schedule to be determined. The completion report for the SEP shall be submitted to the Executive Officer within 60 days of project completion.
4. The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.

5. If a hearing is held, the Water Board may impose an administrative civil liability in the amount proposed or for a different amount; decline to seek civil liability; or refer the matter to the Attorney General to have a Superior Court consider imposition of a penalty.


Bruce H. Wolfe
Executive Officer

OCT 08 2004

Date

Attachment A: Standard criteria and reporting requirement for supplemental environmental project

WAIVER

(The signed waiver will become effective on the day after the public comment period for this Complaint is closed, provided that there are no significant public comments on this Complaint during the public comment period. If there are significant public comments, the Executive Officer may withdraw the Complaint and reissue it as appropriate.)

- ☐ Waiver of the right to a hearing and agree to make payment in full.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2004-0077 and to remit the full penalty payment to the State Water Pollution Cleanup and Abatement Account, c/o State Water Resources Control Board at 1515 Clay Street, Oakland, CA 94612, within 30 days after the signed waiver becomes effective as indicated above. I understand that I am giving up my right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, the civil liability proposed.
- ☐ Waiver of the right to a hearing and agree to make payment and undertake a SEP.
By checking the box, I agree to waive my right to a hearing before the Water Board with regard to the violations alleged in Complaint No. R2-2004-0077, and to complete a supplemental environmental project (SEP) in lieu of the suspended liability up to \$16,500. I also agree to remit payment of the balance of the fine to the State Water Pollution Cleanup and Abatement Account within 30 days after the signed waiver becomes effective. I understand that the SEP proposal shall conform to the requirements specified in Section IX of the Water Quality Enforcement Policy, which was adopted by the State Water Resources Control Board on February 19, 2002, and be subject to approval by the Executive Officer. If the SEP proposal, or its revised version, is not acceptable to the Executive Officer, I agree to pay the suspended penalty amount for the SEP within 30 days of a letter from the Executive Officer denying the approval of the proposed SEP. I also understand that I am giving up my right to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to satisfactorily complete the approved SEP within a time schedule set by the Executive Officer.

Name (print)

Signature

Date

Title/Organization